

REMARKS/ARGUMENTS

In the Office Action mailed July 14, 2004, claims 1-37 were rejected. Applicants have thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the references cited therein. The following remarks are believed to be fully responsive to the Office Action. All the pending claims at issue are believed to be patentable over the cited references.

Claims 1,3, 4, 6, 12, 23-31, and 33-37 have been amended. Claim 32 has been cancelled without prejudice or disclaimer of the subject matter disclosed therein. Claims 38, 39, 40, and 41 have been added. As such, claims 1-31, and 33-41 remain pending.

SPECIFICATION

Applicants have amended paragraphs 45 and 80 to correct typographical errors. The second sentence of paragraph 45 now reads, "The iButton is a computer chip enclosed in a 16 mm stainless steel housing that can withstand extreme temperature conditions, and is designed to be durable, such that it lasts for years." The fourth sentence of paragraph 80 has been amended so that the original phrase "...when the a conductive surface..." now reads "...when a conductive surface..." Support for the amendment to paragraph 45 can be found in paragraph 44 of the specification which states that the manufacturer of the iButton is Dallas Semiconductor. Dallas Semiconductor describes the iButton in a webpage that is attached to this response. The amendments do not add any new matter. Applicants respectfully request that the amendments be entered.

CLAIM AMENDMENTS

Applicants have amended claims 1, 3, 4, 6, 12, 23-31, 33-37 to place them in appropriate form for further consideration by the United States Patent Office as well as to explicitly state that which was inherently present in the as-filed application. As such, the claims have not been narrowed. More specifically, claims 22-36 in the original application have been renumbered as claims 23-37 to correct for a numbering error in the original application (two claims were designated 22 in the original application).

Independent claims 1, 25, and 31 have been amended to explicitly state that a tracking device is attached to an item associated with the storage unit. Support for these amendments can be found in paragraph 49 in the specification which states that “[t]he association of the tracking device 22 with the goods 14 may be accomplished in a number of ways. For example, the tracking device 22 may be integrated into the construction of the container 15 in which the goods 14 may be placed, integrated with the contents of the goods 14, or associated with an inner storage unit 24, such as a tray that is associated with the goods 14.”

Claims 3 and 4 have been amended by changing the term “write data” to “data” for improved clarity. Claim 3 has been additionally amended by adding the phrase “obtained from the first tracking device.” Support for this amendment is found in paragraph 48 of the specification which states “The tracking device 22 communicates information about the status of the goods 14 to the processing and/or data storage device 18 or network 20. The information is then logged onto the respective device.”

Claim 6 has been amended to correct a typographical error by deleting the word “at” from the phrase “wherein the processing device at reads data.” The amended phrase now reads, “wherein the processing device reads data.”

Claim 12 has been amended to replace the registered trademark name, “iButton,” with its generic descriptive equivalent, “a microchip enclosed in a stainless steel housing.” Support for this amendment can be found in paragraph 44 of the specification which states that Dallas Semiconductor is the manufacturer of the iButton. A webpage describing Dallas Semiconductor’s iButton is attached as a further reference.

Claim 38 has been added. Support for this addition can be found in paragraph 44 of the specification which states, “[b]y associating the tracking device 22 with the goods 14, the tracking device 22 serves as a means for identifying, monitoring and tracking the status and location of the goods 14.”

Claims 39, 40, and 41 have been added. Support for these additions can be found in paragraph 55 of the specification which states that “[i]n an exemplary embodiment of the present invention, the tracking device 22 is utilized to perform temperature profiling of the goods 14 when the goods 14 are outside the storage unit 12.”

Support for these amendments can be found in paragraphs 44, 48, 49, and 55 of the specification. As such, no new matter has been added.

CLAIM REJECTIONS – 35 U.S.C. § 102(b)

The Examiner rejected claims 1-8, 12, 20-25, and 31-35 under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 4,275,382 to Jannotta (hereinafter referred to as “Jannotta”). In light of the following remarks, Applicants respectfully submit that these claims are allowable.

Initially, Applicants note that it is axiomatic that to qualify as an anticipation under Section 102, the cited reference must “bear within its four corners adequate directions for the practice of the patent invalidated.” (See, for example, Dewey & Almay Chemical Co. v. Mimex Co., Inc., 52 U.S.P.Q. 138 (2nd Cir. 1942)). Applicants respectfully submit that Jannotta embodies no such directions.

Applicants’ independent claim 1 recites a storage unit that includes a first tracking device and a processing device electrically linked to the first tracking device. The first tracking device is attached to an item and monitors the presence and temperature of the item associated with the storage unit. Independent claim 25 recites, *inter alia*, a method for generating a log of temperature information for an item in a storage unit, including storing the item and attaching a tracking device to the item. Independent claim 31 recites, *inter alia*, a storage unit, including means for storing an item and a means for attaching a tracking device to the item.

Jannotta discloses an apparatus for determining the level of liquid in a vessel such as a storage tank. A plurality of indicators are located at varying points along the height of the vessel. The indicators indicate the presence of liquid at a predetermined, or given, level within the vessel, e.g., at a level along the height of the vessel corresponding to the position of one of the multitude of indicators. More specifically, each indicator includes a magnetic reed switch

that is activated by a magnetic float at or near the liquid surface. *See Jannotta column 1, lines 56-65; column 2, lines 21-25.*

Jannotta further discloses liquid storage tanks equipped with temperature measuring means, e.g., conventional electronic temperature sensing transducers, which allow the temperature of the liquid inside the storage tank to be measured. *See Jannotta column 3, lines 55-60.*

Jannotta, however, does not disclose a single tracking device that (1) is capable of monitoring the presence of an item associated with a storage unit, and (2) is capable of monitoring the temperature of the item. Jannotta is limited to two separate devices, a reed switch and a temperature sensing transducer. In contrast, the present invention claims a tracking device that accomplishes both functions, (1) monitoring the presence of an item associated with a storage unit, and (2) monitoring the temperature of the item. *See claims 1, 25, and 31.*

The combination, disclosed by Jannotta, of the reed switch along with a magnetic float, only measures the height of the liquid level inside the vessel, a physical characteristic of the liquid inside the tank. Therefore, the apparatus disclosed by Jannotta can only detect the presence of the liquid based upon a minimum amount of liquid being reached. This is in contrast to the present invention which tracks discrete items associated with the tracking device. The tracking device of the present invention does not require any minimum amount of the items, such as liquid, to be present in order to be able to track. *See paragraph 49 of the specification.*

Furthermore, Jannotta does not disclose an apparatus or method capable of providing tracking information regarding an item when the item is removed from the vessel. The present invention, on the other hand, is capable of providing information regarding an item when the

item is removed from the vessel. For example, paragraph 55 of the specification states that “[i]n an exemplary embodiment of the present invention, the tracking device 22 is utilized to perform temperature profiling of the goods 14 when the goods 14 are outside the storage unit 12.” *See also claims 39, 40, and 41 which state that the apparatus and method is capable of monitoring the temperature of an item when the item is outside the storage unit.*

Jannotta also does not disclose an apparatus or method to monitor a discrete item associated with the storage unit. For example, the apparatus described in Jannotta would not provide information distinguishing between a first discrete volume of liquid in the vessel and a second discrete volume of liquid in the vessel replacing the first, so long as the liquid level in the tank remained the same when the second discrete volume replaced the first. In contrast, the present invention claims a tracking device that is attached to an item, or a plurality of tracking devices attached to a plurality of items. Since each item is attached to a tracking device, the present invention can monitor each discrete item and distinguish between each item. *See claim 1 (stating “a first tracking device attached to an item associated with the storage unit”) and claim 22 (stating “a plurality of tracking devices associated with a plurality of items in the storage unit”).*

In light of the foregoing arguments, withdrawal of the rejection of independent claims 1, 25, and 31 under 35 U.S.C. § 102(b) as being anticipated by Jannotta is respectfully requested. Furthermore, Applicants note that since independent claims 1, 25, and 31 are allowable claims as discussed above, any claim that depends from claims 1, 25, or 31 is allowable. Therefore, Applicants respectfully request that the rejection to claims 2-8, 12, 20-24, and 33-35 be removed.

CLAIM REJECTIONS – 35 U.S.C. § 103(a)

The Examiner rejected claims 9-11 under 35 U.S.C. § 103(a) as being unpatentable over Jannotta in view of Official Notice. Applicants note that since independent claim 1 is an allowable claim as discussed above, any claim that depends from it is allowable. Therefore, Applicants respectfully request that the rejection to claims 9-11 be removed.

The Examiner rejected claims 13-19, 26-30, and 36-37 under 35 U.S.C. § 103(a) as being unpatentable over Jannotta in view of Zagami. Applicants note that since independent claims 1, 25, and 31 are allowable claims as discussed above, any claim that depends from claims 1, 25, or 31 is allowable. Therefore, Applicants respectfully request that the rejection to claims 13-19, 26-30, and 36-37 be removed.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request that any and all objections and rejections to the claims be removed. If, for any reason, the Examiner disagrees, please call the undersigned patent agent at 202-861-1793 in an effort to resolve any matter still outstanding before issuing another action. The undersigned patent agent is confident that any issue which might remain can readily be worked out by telephone.

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Patent

In the event this paper is not time filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to Attorney Docket No. 87289.2221.

Respectfully submitted,

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